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***“SOME LEGAL ASPECTS OF PUBLIC PROCUREMENTS AND CONTRACTS IN
BRAZIL WITH FOREIGN RESOURCES”***

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**SOME LEGAL ASPECTS OF PUBLIC PROCUREMENTS AND CONTRACTS IN BRAZIL
WITH FOREIGN RESOURCES**

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“Blessed is the nation whose God is the Lord, the people he chose for his inheritance.”

Psalm 33:12

I dedicate this very final paper to The Lord, Jesus Christ, who is the Eternal Fountain of Life, and Eternal Life; to my beloved father and mother, Evandro and Vera Lúcia; to my dearest family and to all my friends who are truly gifts given to me from The Heavens.

I acknowledge specially also for the kindness of the Professor Ferrer; the Professor Whandorf; the 'brother' Kevin; and to all the staff of the GWU.

INTRODUCTION

The aim of the present paper is to discuss about certain aspects of the public procurements and contracts under the Brazil's Law System, mainly regarding the national regulation in relation to the loan international agreements.

2. The main purpose of this research is not to exhaust the discussion about the legal orientation about *Public Procurements and Contracts in Brazil with Foreign Resources*, which has special characteristics and concerns identifiable on the International Law.

3. Does it mean that the Public Administration must adapt its actions to some foreign rules? The question raised by many is how may it be possible, whether the Federative Republic of Brazil is based on its sovereignty, as said in Brazilian Constitution's Article 1, I?

4. Following this matter, this study shall consider the principles of the rule of the law, under the Constitution of Brazil, and the pertinent legal regulation.

5. The modern advances of e-procurements and some recent legal innovations are also object of this writing, in order to privilege small companies, meaning significant increasing in the Brazilian bidding competition, which had been recently adopted by the World Bank, though its International Bank for Reconstruction and Development (IBRD), and also by the Inter-American Development Bank (IDB).

THE RULE OF LAW

“One of the simplest and most enduring versions of the idea of the rule of law centers on an evocative but impossible ideal: “the rule [for government] of law[s], not the rule of men’ (or of women, or indeed of any fallible mortals).”

“Taken literally, this is nonsense. Laws are not and cannot be self-creating of self-enforcing edicts. Unlike the laws of gravity or thermodynamics, they need human beings to create, interpret and enforce them. A more feasible meaning for this ideal is that all humans (especially officials of the state) are subject to the law.”

Charles Sampford²

The Constitutional Principle of Lawfulness

6. Brazil’s Legal System has its foundations in the Constitution of the Federative Republic of Brazil, edited in October 15th, 1988, it is based on its sovereignty, under the Article 1, I, and in which Article 5, II, is also said that “no one shall be obliged to do or refrain from doing something except by virtue of law”.

7. It means that whatever the particular is willing to do, it will be as legally possible as the internal laws of the country do not forbid.

8. However, for the acts of the Public Administration it is necessary to observe the preexisted rules in order to do only what the law permits, otherwise its acts shall be considered invalids.

9. This way, the Constitution’s Article 37 predicts: “The direct or indirect public administration of any of the powers of the Union, the states, the Federal District and the municipalities, as well as their foundations, shall obey the principles of **lawfulness**, (...)”³.

² In “Globalisation and the Rule of Law”, Article “Reconceiving the Rule of Law for a Globalizing World”, Routledge, New York, 2005, Page 13.

10. An ordinary explanation about the known principle of the Public Law, *the principle of lawfulness for the Public Administration*, consists in that it would be unnecessary to edit prohibiting rules directed for the Public Administration, therefore it is more than enough just not to edit any law.

The Democratic State of Law and the Principle of Lawfulness

11. As a matter of fact, the principle of lawfulness is related to the idea of *Democratic State of Law*.

12. In short terms, the State of Law is a democratic state committed to the principle of the supremacy of the law and derives its legitimacy, authority and effectiveness from the free will represented in the laws.

13. For the Professor CELSO ANTÔNIO BANDEIRA DE MELLO's point of view, this concept definitely bears in its essence the empire of the full principle of lawfulness⁴.

14. About this same idea, the lawyer ALEXANDRE REZENDE DA SILVA, in his article about the "*Principle of Lawfulness*"⁵, appropriately said that its application is the great expression of the Democratic State of Law, what represents the warrant for the society to not be arrested by the public agent's personal willing⁶.

³ Translated and revised by ISTVAN VAJDA, PATRÍCIA DE QUEIROZ CARVALHO ZIMBRES and VANIRA TAVARES DE SOUZA (in <http://www.direito.adv.br/constituicoes/const88.zip>).

⁴ "*Expressa-se, assim, sucintamente, que nele rege, com indiscutido império, o princípio da legalidade em sua inteireza, isto é, no rigor de seus fundamentos e de todas as suas implicações.*" [in "*Revista de Direito Público*" (Public Law Magazine) nº 96, Page 42].

⁵ "Princípio da Legalidade", in <http://jus2.uol.com.br/doutrina/texto.asp?id=3816>.

⁶ "O Princípio da Legalidade é a expressão maior do Estado Democrático de Direito, a garantia vital de que a sociedade não está presa às vontades particulares, pessoais, daquele que governa."

15. On the other hand, the Brazil's Constitution has also included through the Constitutional Amendment nº 19, of 1998 (4th June), another relevant rule, ***the principle of efficiency***, in its Article 37, *caput*.

16. As the Counsellor of Legislation of Ministry of Justice of Finland, OUTI SUVIRANTA wrote in his article about *“Good Administration and Efficiency in Administration – Principles and Legislation”*⁷, and upheld that *“For an administrative lawyer, the questions are: What is the role of legislation or law when public administration is being reformed so as to better meet the requirements of efficiency? What are the frames – legal frames – set by the principles implied in the notion of good administration? Or more generally, what – besides efficiency – does the principle of the rule of law or Rechtstaatlichkeit, demand of the public administration?”*.

17. In continuation, he said that, *in litteris*, *“Accordingly, the public administration has to apply the law. The administration is not free to depart from the law in order to be efficient. It is, however, possible to make laws that leave room for other means of steering, which increase the efficiency of administration better than norms – above all, economic and political steering.”*

18. And, *“In conclusion: to be good, the public administration must be efficient. But at the same time, its structure and methods are to be constructed so that the democratic legitimacy and the protection of individuals in their relation to the administration are not in danger. Those in charge of the development of the administration should have knowledge of, and be sensitive to, these demands, as well.”*

19. About Brazil's Law System, it's possible to highlight some new rules edited in order to accomplish the good aims of the public principle of efficiency, as it will be shown in this paper later on

⁷ In <http://www.cbss.st/documents/cbsspresidencies/7lithuanian/outlook/dbaFile483.html>.

- II -

BRAZIL'S REGULATION OF PUBLIC PROCUREMENTS AND CONTRACTS WITH FOREIGN RESOURCES

“Good procurement legislation forms the backbone of the entire procurement system .”

“(...) six key steps have emerged for officials to follow in the creation of a good public procurement system – ‘the six step method’. The six step method seems to have worked almost universally and has resulted almost always in setting up an effective public procurement system. When some of the six steps have been omitted, often the new system has not been successful. When all six steps are followed, success is much different value systems, and in differing political systems; the author has seen them at work in Central and Eastern Europe, Africa and Asia.

The six steps are:

- 1. support from highest political levels;*
- 2. publicity about the advantages of the new system;*
- 3. cooperation between the public and private sector;*
- 4. good procurement training;*
- 5. good procurement legislation;*
- 6. establishment of a central public procurement office/division/board.”*

Cynthia Walker⁸

A Briefly Commentary about the Theory of Pure Law and the Effectiveness of Law

20. In my opinion I think it is worthy and nearly necessary to explain something about the foundations and the relevancy of the ***positive law***.

21. The acknowledgements to the author of the “*Pure Theory of Law*”⁹, HANS Kelsen (October 11th, 1881 – April 19th, 1973), are inevitable in this matter.

⁸ In “*Public Procurement – The Continuing Revolution*”, vol. 15 of International Economic Development Law Series, Article “*Setting Up a Public Procurement System*”, Kluwer Law International, USA, Page 9.

22. KELSEN was an Austrian-American jurist. He contributed with his studies to the positive law, describing that the investigative process of law is connected with a picture of a *pyramid*.

23. In this sense, he said that “*the most fundamental and authoritative norm (the "Grundnorm") at the top and the most particular norms (those which applied to particular concrete situations) at the base. Kelsen called the passage from general to particular "concretization". The Grundnorm is inherently stable but may change over time.*”¹⁰

24. On this *hierarchy pyramid*, GUILHERME MACHADO CASALI and EMANUELA CRISTINA ANDRADE LACERDA¹¹ explain that the complexity of the interpretative action resides in the consideration from the highest level to the lowest level of its structure, in order to apply the rule to real case through a judicial decision or an administrative action.

25. Also, the hierarchy pyramid is explained as an application of the principle which defines that the inferior norm shall not be opposite against the superior one, otherwise it will be considered unconstitutional or illegal.

26. About “*The Normativity of Law*”, it is found in the “*Standford Encyclopedia of Philosophy*”¹², the following quotations from the KELSEN’s “*Pure Theory of Law*”:

“The law, according to Kelsen, is a system of norms. Norms are ‘ought’ statements, prescribing certain modes of conduct. Unlike moral norms, however, Kelsen maintained that legal norms are created by acts of will.”

“This analogy between law and religion, on which Kelsen often dwells, is more limited than it first appears, however. The normativity of religion, like that of morality, does not depend on the actual obedience of their respective subjects. For those, for example, who presuppose the basic norm of

⁹ Published in 1934.

¹⁰ In http://en.wikipedia.org/wiki/Pure_Theory_of_Law.

¹¹ In “*The Limitations of the Positivist Interpretation and the Contributions of Ronald Dworkin*” <http://revistaeletronicardfd.unibrasil.com.br/index.php/rdfd/article/view/104/84>.

¹² In Standford Encyclopedia of Philosophy (<http://plato.stanford.edu/entries/lawphil-theory/>).

Christianity, the latter would be valid even if there are no other Christians around. But this, as Kelsen explicitly admits, is not the case with law. The validity of a legal system partly, but crucially, depends on its actual practice: “A legal order is regarded as valid, if its norms are by and large effective (that is, actually applied and obeyed).” [PT2, 212] Furthermore, the actual content of the Basic Norm depends on its ‘effectiveness’.

The Brazil’s Constitution Article 37, XXI

27. Under the positive law system of Brazil, the Constitution is the main source of law.

28. As exposed on the previous analysis, the constitutional principle of lawfulness is not a specific principle for the public procurements and contracts.

29. It is shown also that the whole administrative actions must be done under the precepts established in the law; otherwise they will be considered invalid.

30. The Constitution of Brazil foretells about public procurements and contracts in its Article 37, XXI:

“XXI – with the exception of the cases specified in law, public works, services, purchases and disposals shall be contracted by public bidding proceedings that ensure equal conditions to all bidders, with clauses that establish payment obligations, maintaining the effective conditions of the bid, as the law provides, which shall only allow the requirements of technical and economic qualifications indispensable to guarantee the fulfilling of the obligations.”¹³

31. This rule provides to the law the sufficient power to regulate about public procurements and contracts; however in this particular subject, the law shall ensure the observance of the following conditions, as said by the Constitution’s policy:

¹³ Translated and revised by ISTVAN VAJDA, PATRÍCIA DE QUEIROZ CARVALHO ZIMBRES and VANIRA TAVARES DE SOUZA (in <http://www.direito.adv.br/constituicoes/const88.zip>).

a) equal conditions to all bidders; and

b) the contracts shall maintain the effective conditions of the bid.

The Brazilian Federal Laws about Public Procurements and Contracts

32. These are the most important Brazilian Federal Laws about public procurements and contracts:

a) *Law nº 8.666, June 21th, 1993*, that establishes general rules about procurements and public contracts about works, services, including publicity services, purchases, sales and rentals, for the Powers of the Federal Government, States, Federal District and Municipalities¹⁴;

b) *Law nº 10.520, July 17th, 2002*, that creates the Federal Government, States, Federal District and Municipalities, in the terms of the Article 37, XXI, of the Brazil's Constitution, the form of procurement called "pregão", for the acquisition of goods and common services¹⁵;

c) *Law nº 123, April 6th, 2005*, which deals with general rules of contracts with public consortia¹⁶; and

d) *Supplementary Law nº 123, December 14th, 2006*, that establishes the National Statute of Microcompanies and Small Sized Companies¹⁷.

¹⁴ "Esta Lei estabelece normas gerais sobre licitações e contratos administrativos pertinentes a obras, serviços, inclusive de publicidade, compras, alienações e locações no âmbito dos Poderes da União, dos Estados, do Distrito Federal e dos Municípios."

¹⁵ "Institui, no âmbito da União, Estados, Distrito Federal e Municípios, nos termos do art. 37, inciso XXI, da Constituição Federal, modalidade de licitação denominada pregão, para aquisição de bens e serviços comuns, e dá outras providências."

¹⁶ "Dispõe sobre normas gerais de contratação de consórcios públicos e dá outras providências."

¹⁷ "Institui o Estatuto Nacional da Microempresa e da Empresa de Pequeno Porte; altera dispositivos das Leis nºs 8.212 e 8.213, ambas de 24 de julho de 1991, da Consolidação das Leis do Trabalho – CLT, aprovada pelo Decreto-Lei nº 5.452, de 1º de maio de 1943, da Lei nº 10.189, de 14 de fevereiro de 2001, da Lei Complementar nº 63, de 11 de janeiro de 1990; e revoga as Leis nºs 9.317, de 5 de dezembro de 1996, e 9.841, de 5 de outubro de 1999."

33. The next step is to wonder about how to apply the Brazil's Legal System in the loan agreements with international organisms.

34. This very relevant inquiry is raised by the Professor CAIO MÁRCIO DE BRITTO ÁVILA in "Procurements in the World Bank's Loans" (Article "Principles", Projeto Nordeste-MEC/BIRD, Brasília, 1998, Page 43)¹⁸, *in verbis*: "But is for the administrator only is given to do what the law prescripts, when there will be financial resources by international organisms, to which "law" is the public agent, the executor of Law, to apply to?"

35. In this matter, it is substantially pertinent to acknowledge the special inscription contained in the Article 42, Paragraph 5^o, of the mentioned Brazil's Federal Law n^o 8.666, 1993, **which allows the exceptional hypothesis of using procedures/rules of international borrowers or donors.**

36. In the Article 42, Paragraph 5^o, it is said that¹⁹:

a) in the procurements for works, services or acquisition of goods, with resources of loans or donations done by official agencies of foreign cooperation or financial organism multilateral in which Brazil is a member, it will be possible to apply in its procurements, the conditions that came from agreements, protocols, conventions or international treaties approved by Brazil's National Congress; and

b) in addition, it is possible to apply, in those procurements, the rules and procedures of that entities, including the selection's criterion of the most advantage

¹⁸ "Mas se ao administrador somente é dado fazer o que a lei prescreve, quando existirem financiamentos concedidos por organizações internacionais, à qual "lei" deve o agente público, aplicador do Direito, se reportar?" (in "Licitações com Empréstimos do Banco Mundial", article "Princípios", Page 43).

¹⁹ "§ 5^o Para a realização de obras, prestação de serviços ou aquisição de bens com recursos provenientes de financiamento ou doação oriundos de agência oficial de cooperação estrangeira ou organismo financeiro multilateral de que o Brasil seja parte, poderão ser admitidas, na respectiva licitação, as condições decorrentes de acordos, protocolos, convenções ou tratados internacionais aprovados pelo Congresso Nacional, bem como as normas e procedimentos daquelas entidades, inclusive quanto ao critério de seleção da proposta mais vantajosa para a administração, o qual poderá contemplar, além do preço, outros fatores de avaliação, desde que por elas exigidos para a obtenção do financiamento ou da doação, e que também não conflitem com o princípio do julgamento objetivo e sejam objeto de despacho motivado do órgão executor do contrato, despacho esse ratificado pela autoridade imediatamente superior."

proposal for the Public Administration, which may consider, beyond the price, other factors of evaluation, as long as they are required for the loan proceeds or the donation, and also do not go against the principle of objective judgment and become object of motivated decision of the contract's executor body, which is confirmed by the superior immediately superior authority.

The Nature of the Loan Agreements and the Instruments of Donations

37. Actually, the nature of the loan international agreements and the instruments of international donations subscribed by the Federative Republic of Brazil are not the same as the similar celebrations signed by non-governmental entities, companies or private citizens.

38. In general, these international government instruments are called treaties, denomination given by the 1969 Vienna Convention on the Law of Treaties (VCLT).

39. The Professor MALGOZIA FITZMAURICE in the Article "*The Practical Working of the Law of Treaties*"²⁰, defines that "*The treaties are far the most important tools of regulation of international relations.*", and explains that "*They may be concluded among States, States and international organizations, and among international organizations (...).*".

40. In other words, treaties are agreements under International Law entered into by actors in International Law, namely states and international organizations.

41. A treaty may also be known as: an (international) agreement, protocol, covenant, convention, exchange of letters, exchange of notes, accord, memorandum of understanding, etc. Regardless of the terminology, all of these international agreements under international law are equally treaties and the rules are the same.

42. The definition shown by the Brazil's Ministry of International Affairs website²¹ is that the nomenclature of the treaties vary , what has suffered many

²⁰ In "International Law", edited by MALCOM D. EVANS, Oxford University Press, Great Britain, second edition, 2006, Page 190.

²¹ In <http://www2.mre.gov.br/dai/003.html>.

variations during the time, although the *nomen juris* does not influence the nature of the document.

43. It is also written in this website that Brazil has often done use of the term “*agreement*” in its bilateral negotiations of political, economics, commercial, cultural, scientific and technical nature, and it is free and largely used internationally, and some jurists defend that agreements shall be signed lonely by a small number of participants and relative importance. However, one of the most famous and important multilateral treaties was nominated as “*General Agreement on Tariffs and Trade*”.

44. As a source of International Law, it does not mean that the existence of any treaty necessarily means that it is automatically part of the internal Brazil’s Legal System, for that , it is required, under the Brazilian rules, to be approved by the Congress in order to receive the status of a law.

45. In an exposition about the “*Legal Nature of Loan Agreements with the World Bank*”²² GIZELA CHAUMON explained that this model of integration is applied in most the world, while there are some countries which accept a treaty as internal law system just since its existence.

46. At the same speech, GIZELA CHAUMON said that is rather lengthy this legal process in Brazil, which takes between 12 and 15 years in average for a treaty get the Congress’ approval to become a law, because there are many interests involved with its object.

47. The central principle of treaty law is expressed in the maxim *pacta sunt servanda* (“*pacts must be respected*”).

48. Treaties can be loosely compared to contracts: both are means of willing parties assuming obligations among themselves, and a party to either that fails to live up to their obligations can be held liable under international law for that breach.

²² In “*Procurements in the World Bank’s Loans*”, Projeto Nordeste-MEC/BIRD, Brasília, 1998, Page 155).

49. Under Brazil's Constitution these financial treaties are allowed by the Article 49, I:

“Article 49. It is exclusively the competence of the National Congress:

I - to decide conclusively on international treaties, agreements or acts which result in charges or commitments that go against the national property;”²³

50. It means that the Congress, i.e., both the members of the Senate and the Chamber of Deputies joined, are responsible for the approval of international agreements in order to become their rules as internal laws.

51. On the other hand, whether it is a loan agreement, the Constitution has another and exceptional treatment, as said in its Article 52, V, which predicts the participation only of the Senate:

“Article 52. It is exclusively the competence of the Federal Senate:

.....

V - to authorize foreign transactions of a financial nature, of the interest of the Union, the states, the Federal District, the territories and the municipalities;”²⁴

52. Observe that in the latter case, its chronological order is inevitably precedent on the international document's signature.

53. In the latter hypothesis, the authorization shall not result in internalization of the agreement with the very status of a law.

²³ Translated and revised by ISTVAN VAJDA, PATRÍCIA DE QUEIROZ CARVALHO ZIMBRES and VANIRA TAVARES DE SOUZA (in <http://www.direito.adv.br/constituicoes/const88.zip>).

²⁴ Translated and revised by ISTVAN VAJDA, PATRÍCIA DE QUEIROZ CARVALHO ZIMBRES and VANIRA TAVARES DE SOUZA (in <http://www.direito.adv.br/constituicoes/const88.zip>).

54. On this matter, the consequence following the Senate's authorization will be that the application of the Article 42, Paragraph 5^o, of the mentioned Brazil's Federal Law nº 8.666, 1993, shall be very possible to the borrower.

The Uniformity as a Characteristic of the Foreign Rules

55. In the very example of the World Bank, the matter of the procurements regulation means a quite relevant issue and contains a significant and worldwide value.

56. First of all, because through the International Bank for Reconstruction and Development, the World Bank deals with a giant sum of money with quite different languages and cultures, connected with nations of almost all parts of the world.

57. TIM TUCKER, a Procurement Consultant, said in his Article "A Critical Analysis of the Procurements Procedures of the World Bank"²⁵, that the institution "is a very important procurement organization", and affirmed, with that particular season's figures: "It spends US\$ 2.5 million every hour, and since its inception has provided nearly US\$ 250 billion in financing for some 5,000 development projects."

58. In addition: "In recent fiscal years average annual lending of US\$22 billion has accounted for about 220 new projects."

59. Hence, the rules about the procurements must be uniform in certain way in order to achieve an ideal organization, considering the most that is a task of the institution to examine the expenditures and the connected procedures in every each project.

²⁵ In "Public Procurement – Global Revolution", vol. 8 of International Economic Development Law Series, 1998, Kluwer Law International, USA, Page 139.

60. About the advances of the e-procurements (electronic procurements), the authors ERWIN A. BLACKSTONE, MICHAEL L. BOGNANNO AND SIMON HAKIM, in the Article “*Electronic Government: Review, Evaluation, and Anticipated Impact*”²⁶, said that “*The benefits of e-government have become manifest in numerous ways since the late 1990s*” and “*With the high rate of Internet usage today and the extent of interaction between the public and business over the Internet, the expectation of a similar level of convenience in dealing with government has developed.*”

61. Also, from the same Article, it is worthy to write the following quotation, about the benefits to the government procurements through the Internet, *in litteris*:

*“A major area of change in the relationship between government and business is expected to be in the area of electronic procurement. E-procurement has a number of advantages over the traditional method of awarding contracts. Cost savings should result because information concerning a contract is disseminated more widely, exposing it to more bidders. This has the advantage of increasing competition, making collusion between bidders more difficult, and increasing transparency. Additionally, units of government can cooperate in joint e-procurement, increasing the scale of their orders and saving money by avoiding to set up duplicate e-procurements systems.”*²⁷

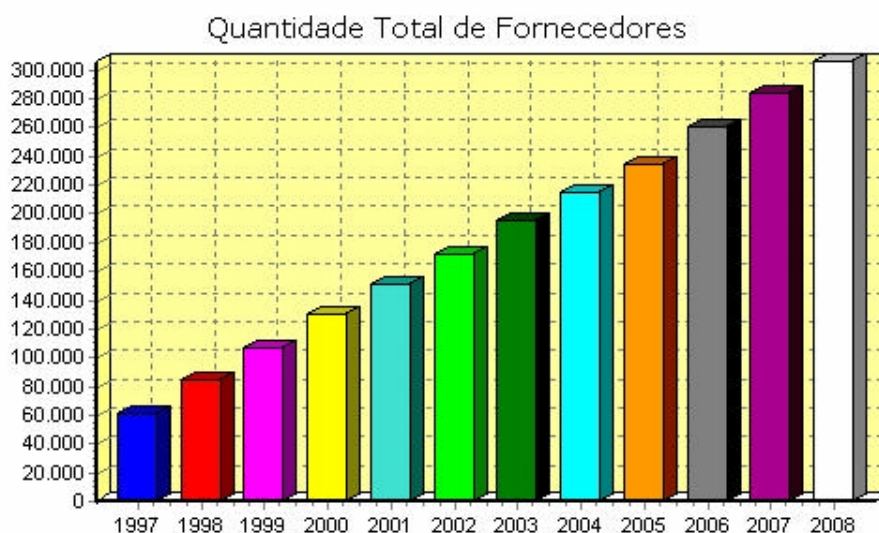
62. Recently, both the World Bank and the Inter-American Development Bank (IDB) adopted the Brazilian model of e-procurement under its loan agreements celebrated with the Federative Republic of Brazil.

63. The Brazilian e-experience is ruled by the mentioned **Law nº 10.520, 2002**, regulating the “Pregão Eletrônico”, what may be called by electronic procurement, and also together with the *Supplementary Law nº 123, 2006* (created the National Statute of Micro companies and Small Sized Companies), that established new rules of competitive stimulus to micro companies and small companies, which consists in opening another phase in the bidding process, just in case of a virtual draw.

²⁶ In “*Innovations in E-Government – The Thoughts of Governors and Mayors*”, Rowman & Littlefield Publishers, Inc., USA, 2005, Page 5.

²⁷ *Idem*, Page 7.

64. Under these mixed legal model, the government has increased significantly the Brazilian bidding electronic competition as shown in the following statistics table, about the number of suppliers enrolled in the federal government electronic system:

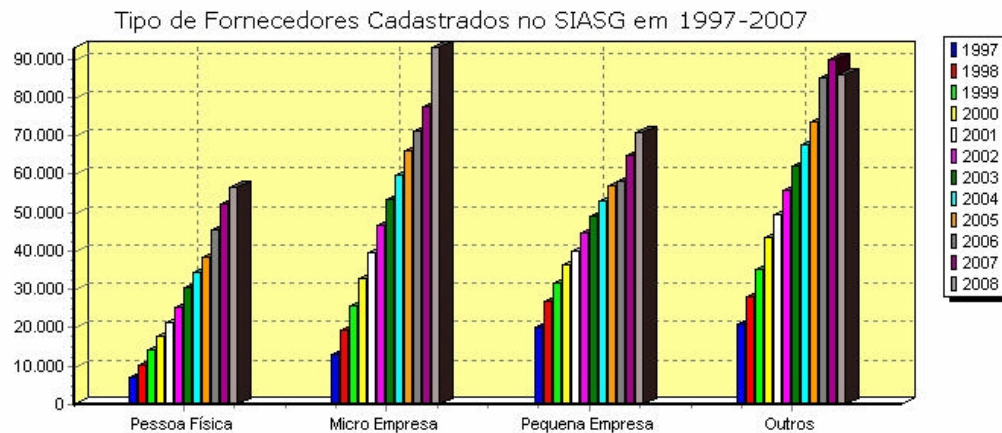


Source: Data base of SIASG (11-11-2008) .

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number of Suppliers	61.113	84.701	106.563	130.384	150.600	172.141	194.857	214.389	235.098	260.092	284.552	306.153

<http://www.comprasnet.gov.br/ajuda/siasg/numeros/GraficoQUANT.asp>

65. Regarding on the company's size, there is significant increasing in the number of enrolled suppliers also:

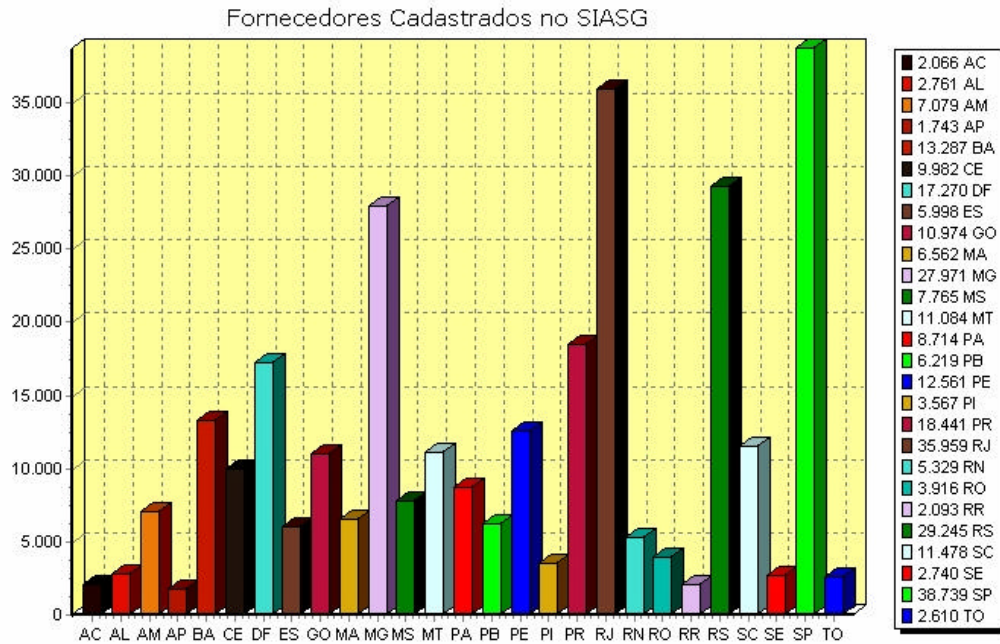


Source: Data base of SIASG (11-11-2008).

Type of Supplier	Personal	Microcompany	Small Sized Company	Others	Totally
Quantity until 1997	7.106	12.892	20.058	21.057	61.113
Quantity until 1998	10.367	19.195	26.895	28.244	84.701
Quantity until 1999	14.124	25.816	31.589	35.034	106.563
Quantity until 2000	17.811	32.712	36.407	43.454	130.384
Quantity until 2001	21.353	39.715	40.115	49.417	150.600
Quantity until 2002	25.394	46.541	44.576	55.630	172.141
Quantity until 2003	30.448	53.319	49.056	62.034	194.857
Quantity until 2004	34.301	59.666	52.866	67.556	214.389
Quantity until 2005	38.500	66.111	56.945	73.542	235.098
Quantity until 2006	45.476	71.371	58.316	84.929	260.092
Quantity until 2007	52.144	77.747	64.905	89.756	284.552
Quantity until 2008	56.526	92.992	70.962	85.673	306.153

<http://www.comprasnet.gov.br/ajuda/siasg/numeros/GraficoTipo.asp>

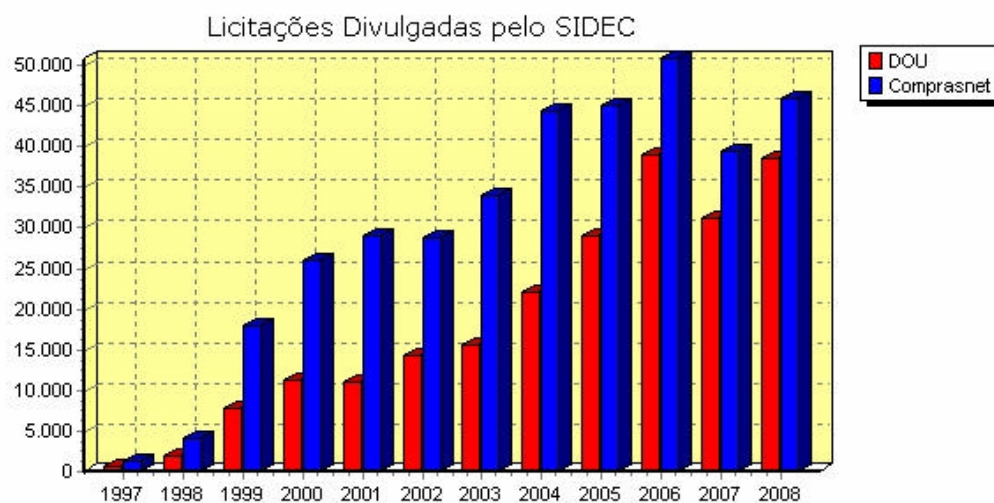
66. These are numbers of suppliers of the different regions of the country:



Source: Data base of SIASG (11/11/2008).

<http://www.comprasnet.gov.br/ajuda/siasg/numeros/GraficoUF.asp>

67. The blue color represents the total number of e-procurements announced and the red are the non-electronic ones:



Source: Data base of SIASG (11/11/2008).

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Official Press	660	1.958	7.790	11.307	11.122	14.365	15.508	22.014	29.000	38.928	31.204	38.426
Comprasnet	1.400	4.068	17.994	26.055	29.092	28.717	33.894	44.389	45.004	50.868	39.459	45.925

<http://www.comprasnet.gov.br/ajuda/siasg/numeros/GraficoSIDECA.asp>

CONCLUSION

68. This paper is constructed with the objective of discussing some basic concepts about the rule of the law, as the effective support of the concept of the Democratic State of Law.

69. It is written under the Brazil's Law System, taking as the main subject the regulation of "*Public Procurements and Contracts in Brazil with Foreign Resources*".

69. The new advances of e-government have been used in Brazil with considerable success, in constant growth, and also were recently adopted by the World Bank and IDB.

70. These suggestions are dedicated to the government of the Federative Republic of Brazil:

a) review the Brazilian Legal System as a whole, in order to improve its foundations applying as possible all the modern advances obtained by the experience from electronic procurement, specially the case of inverse phase of the procedures, *v.g.*, the moment of qualification done *a posteriori* of the bidding (it is possible that a procurement may be interrupted by judicial decision, just to discuss some allegations about the qualification of an offer or others formal procedures, causing many damages to the process);

b) promote even more information about the e-procurement to micro companies and small sized companies.

71. About the financial multilateral organisms created and to every country interested in this subject, even the United States of America: to get closer to Brazil in order to start new discussions and to enrich even more the knowledge of implementation and leading with e-procurements.